

Application No. 10/955,047

Reply to Office Action of March 01, 2006

REMARKS AND ARGUMENTS

The present application includes pending claims 1-19. Claims 1-2, 4-5, 8-13, 14-15, and 18 have been rejected as being unpatentable over Neuman et al, United States Patent Publication No. 2002/0141441 A1, in view of Vaglica et al, United States Patent No. 6,125,404.

Claims 13, 16-17 and 19 are rejected under 35 U.S.C. § 103(a) as, being unpatentable over Neumann et al, in view of Vaglica et al, and in further view of well known prior art.

Claims 3, 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent forms including all of the limitations of the base claim and any intervening claims. The Applicants respectfully submits that the claims define patentable subject matter.

The Applicants respectfully traverses these rejections and requests reconsideration of the claims in view of the following remarks.

Initially, the Applicants notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the

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Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

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Claim Rejections under 35 U.S.C. § 103

With regard to an obviousness rejection, in order for a *prima facie* case of obviousness to be established, the MPEP 2142 states that the following three basic criteria must be met:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicants disclosure.

Manual of Patent Examining Procedure MPEP at § 2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See Manual of Patent Examining Procedure MPEP at § 2142.

Further, MPEP 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination," and that "although a prior art device may be capable of being modified to run the way the apparatus is claimed, there must be a *suggestion or motivation in the reference* to do so" (citing *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion ..., citing *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999).

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I. The Proposed Combination of Neumann and Vaglica et al Does not Render Claims 1-2, 4-5, 8-13, 14-15 and 18 Unpatentable

Paragraph 2 of the Detailed Action 35 U.S.C. § 103

The Applicants first turns to the rejection of claims 1-2, 4-5, 8-13, 14-15 and 18, all of which have been rejected under 35 U.S.C § 103(a). The applicant notes that the proposed combination of Neumann and Vaglica et al forms the basis for all of the pending claims.

A. The Proposed Combination of Neumann et al in View of Vaglica et al Does Not Teach or Suggest, at least, “means for establishing, within said device, timing synchronization between said first and second wireless communications systems on the basis of timing information transferred to said host baseband processor from said baseband co-processor”

Neumann et al discloses a wireless telephone that includes a first and second baseband processors. The first baseband processor (GSM) functions as a system master, and the second processor (TDMA) functions as a system slave. The first baseband processor interfaces to the system controls, such as power supply, man machine interface (MMI), and the like. See Neuman at Abstract.

With regard to claim 1, the Office Action states that Neumann, in FIGs. 2-8b and paragraphs [0019]-[0021], [0027], and [30-31] discloses a “means for establishing, within said device, timing synchronization between said first and second wireless communications systems on the basis of timing information transferred.” Applicant has read paragraphs [0019]-[0021], [0027], and [30-31] and the remainder of the Neumann on numerous occasions and has been unable to identify where Neumann discloses “means for establishing, within said device, **timing synchronization between said first and second wireless communications systems on the basis of timing information transferred to said host baseband processor from said baseband co-processor.**” Emphasis added.

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In paragraph [0027] of Neumann et al, there is disclosed a glue logic interface coupled between the master processor and the coprocessor. Specifically, paragraph [0027] of Neumann et al states:

The GSM master processor 202 also couples directly and via interface or "glue" logic 208 to the TDMA co-processor 204. In one embodiment of the invention, the glue logic 208 provides various synchronization logic between the GSM master processor 202 and the TDMA co-processor 204 and, in particular, provides an asynchronous serial interface (ASC) to the TDMA co-processor and a synchronous serial interface to the GSM master processor 202.

Neumann et al merely states that the glue logic block illustrated in FIG. 3 provides various synchronization logic between the GSM master processor and the TDMA processor. In particular, the glue logic block provides an asynchronous serial interface (ASC) to the TDMA processor and a synchronous serial interface to the GSM master processor. There is no other mention of synchronization in Neumann et al, let alone disclosure of "establishing, within said device, **timing synchronization** between said first and second wireless communications systems on the **basis of timing information transferred to said host baseband processor from said baseband co-processor**" as disclosed in Applicants invention. **Emphasis added.**

The Office Action, at page 3-4, states:

"... note that a logic interface unit for voice data during a voice call couples the GSM master processor to the TDMA co-processor, hence it is **inherent** that a timing synchronization exists between the two different networks." **Emphasis added.**

Based on this statement, the Office Action appears to be rejecting Claim 1 based on inherency.

The Applicants submit that a rejection based on inherency must include a statement of the rationale or evidence tending to show inherency. See Manual of Patent Examining Procedure at § 2112.

"The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."

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See *id.* citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. **Inherency, however, may not be established by probabilities or possibilities.** The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). The Applicants respectfully submit that neither Neumann et al itself nor the Office Action "make[s] clear that the missing descriptive matter," said to be inherent "is necessarily present in Neumann et al.

A rejection based on inherency must be based on factual or technical reasoning:

In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teaching of the applied prior art.

Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

The Applicants respectfully submit that the Office Action does not contain a basis in fact and/or technical reasoning to support the rejection based on inherency. Instead, as recited above, at least claim 1 of the present application stands rejected based on a conclusory statement of inherency, rather than upon a "basis in fact and/or technical reasoning." Accordingly, the Applicants respectfully submit that, absent a "basis in fact and/or technical reasoning" for the rejection of record, that rejection should be reconsidered and withdrawn.

The Office Action concedes on page 3 thereof, that "Neumann does not specifically disclose timing synchronization between the first and second wireless communications systems on the basis of timing information transferred to **said host baseband processor from said baseband co-processor.** To overcome this deficiency, the Office Action relies on Vaglica et al.

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Vaglica et al discloses "a communications system" that "includes multiple processors (14, 16) and a protocol timer (18). The protocol timer (18) controls the timing of events in the communications system and operates autonomously after it is loaded with initial instructions by one of the multiple processors (14, 16). The protocol timer (18) utilizes a frame event table (50) and a macro event table (46, 48) to trigger events and to generate interrupts of the multiple processors (14, 16). By allowing the protocol timer (18) to operate autonomously, the processors (14, 16) are relieved of timing control, and can be powered down when not in use, thus reducing power consumption of the communications system. Also, by using the protocol timer (18) to control the timing of events, software related errors and interrupt latencies are reduced." See Abstract.

The Office Action states in paragraph 2 at page 3, "Vaglica et al discloses time synchronization on the basis of timing information transferred to a second processor from a first processor" and cites for support "Figures 1-4, Abstract, col. 1, lines 11-40, col. 3, lines 1-25, col. 3, line 50 through col. 4, line 65, "Processor 14 receives the bet stream . . . multiplexes . . . the payload . . . provides the control information to processor 16", "timing of events in the communications system", "time synchronization")."

Applicant respectfully submits that this is an inaccurate statement, which at the very least, runs contrary to the invention disclosed by Vaglica et al. As stated in Vaglica et al,

"The protocol timer (18) controls the timing of events in the communications system and operates autonomously after it is loaded with initial instructions by one of the multiple processors (14, 16)." See Abstract. Additionally, Vaglica et al further states "Protocol timer 18 relieves processor 16 of all communications system timing controls duties, including the generation of the interrupts. Protocol timer 18 generates timing information including the reference time value, and based on the timing information, provides the TRIGGERS to QSPI, based on the timing information generated by protocol timer 18, protocol timer 18 generates multiple vectored interrupts MPU INTERRUPTS to processor 14 and interrupts DSP INTERRUPTS to processor 16. See column 4, lines 41-54.

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Accordingly, it is the protocol timer 18 that generates the timing information, and passes the resulting generated timing information to the processor 14 and processor 16. No timing information is passed from the first processor to the second processor as stated in the Office Action.

Furthermore, Vaglica et al does not teach communication in a multi-protocol system in which the first processor handles a first protocol and the second processor handles a second protocol. Instead Vaglica teaches communication "for use in a time division multiple access system (TDMA) system such as GSM." See column 3, lines 47-48.

As shown above, neither Neumann et al nor Vaglica et al teaches or suggests "means for establishing, within said device, timing synchronization between said first and second wireless communications systems on the basis of timing information transferred to said host baseband processor from said baseband co-processor." Therefore, the proposed combination of Neumann et al and Vaglica et does not teach or suggest "means for establishing, within said device, timing synchronization between said first and second wireless communications systems on the basis of timing information transferred to said host baseband processor from said baseband co-processor" as recited in claim 1. Thus, for at least the reasons stated above, the proposed combination of Neumann and Vaglica et al does not render claims 1-2, 4-5, 8-13, 14-15 and 18, in addition to the claims that depend therefrom, unpatentable and a *prima facie* case of obviousness has not been established.

The Office Action further states "It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the device of Neumann by incorporating the teachings of Vaglica, and providing timing synchronization between the first and second wireless communications systems on the basis of timing information transferred to said host baseband processor from said baseband co-processor, for the purpose of preventing loss of information, preventing confusion at the receivers, and avoiding timing errors."

"In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is **not**

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whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." MPEP at § 2141.02. The law is well settled that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion or incentive to do so." *ACS Hospital Systems, Inc. v. Montfiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929 (Fed. Cir. 1984). It is not permissible to pick and choose among the individual elements of assorted prior art references to re-create the claimed invention, but rather "some teaching or suggestion in the references to support their use in the particular claimed combination" is needed. *Symbol Technologies, Inc. v. Opticon, Inc.* 935 F.2d 1569, 1576, 19 USPQ2d 1241 (Fed. Cir. 1991). »

Accordingly, the Applicant respectfully submits that the Office Action does not identify a proper motivation to combine the various references to reject the claims of the present application. Merely identifying isolated elements in the prior art is not enough to establish a *prima facie* case of obviousness. Applicant therefore, respectfully requests that the rejection to claim 1, and all other claims be withdrawn.

With reference to claim 2, the Office Action states, "the combination of Neumann/Vaglica disclose the device of claim 1, and further discloses means for establishing timing synchronization includes means for issuing, from host baseband processor, a timer capture interrupt to the baseband co-processor during a predetermined timer phase of said first wireless communications system (Neumann, paragraphs 27-34, 38-41)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica et al, and Claim 2 depends from a claim 1, which the Applicant believes is allowable, Applicant respectfully requests that the rejection be withdrawn and the claim 2 be allowed.

With reference to claim 4, the Office Action states, "The multi-mode communications device of claim 1 wherein said means for establishing timing synchronization includes means for reading a current value of at least one timer maintained by baseband co-processor consistent with said second wireless communications protocol (figures 2-8B, paragraphs 19-21, 27, 30-31)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica

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et al, and Claim 4 depends from claim 1, which the Applicant believes is allowable, the Applicant, respectfully requests that the rejection be withdrawn and the claim 4 be allowed.

With reference to claim 5, the Office Action states, "the combination of Neumann/Vaglica disclose the device of claim 1, and further disclose host baseband processor further includes a higher-layer processing module and a modem for interfacing with said first wireless communication system, said higher-layer processing module being operatively coupled to said modem and to a baseband interface of said baseband co-processor (figures 24B, paragraphs 00 19-0021, 0038, 0034, 0030, 0025)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica et al, and Claim 5 depends from claim 1, which Applicant believes is allowable, the Applicant respectfully requests that the rejection be withdrawn and the claim 5 be allowed.

With reference to claim 8, the Office Action states, "the combination of Neumann/Vaglica disclose the device of claim 1, and further disclose host baseband processor includes a higher-layer processor configured to effect higher-layer processing of information processed by said baseband co-processor (figures 2-8B, paragraphs 0019-0021, 0038, 0034, 0030, 0025)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica et al, and Claim 8 depends from claim 1, which Applicant believes is allowable, the Applicant respectfully requests that the rejection be withdrawn and the claim 8 be allowed.

Claim 9 is an independent method claim that corresponds to independent system Claim 1. Accordingly, the arguments above that apply to Claim 1 also apply to Claim 9. As previously discussed, Neumann et al does not disclose "establishing, within said device, timing synchronization between said first and second communication systems on the basis of timing information transferred to said host baseband processor from said baseband co-processor." Additionally, for at least the reasons stated herein, Neumann et al is not properly combinable with Vaglica et al. Accordingly, the Applicant respectfully requests that the rejection to claim 9, and all other claims that depend therefrom be withdrawn.

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With reference to claim 10, the Office Action states, "the combination of Neumann/Vaglica disclose the method of claim 9, and further disclose establishing includes issuing a timer capture interrupt to said baseband co-processor (Neumann paragraphs 27-34, 38-41)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica, and Claim 10 depends from claim 9, which Applicant believes is allowable, the Applicant respectfully requests that the rejection be withdrawn and the claim 10 be allowed.

With reference to claim 11, the Office Action states, "the combination of Neumann/Vaglica disclose the method of claim 10, and further disclose establishing further includes providing at least one timer value pertinent to a timing state of said second wireless communications system to the host baseband processor in response to issuance of said timer capture interrupt (Neumann et al, paragraphs 27-34, 38-4 1)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica et al, and Claim 11 depends from claim 10, which depends from Claim 8, which Applicant believes are both allowable, the Applicant respectfully requests that the rejection be withdrawn and the claim 11 be allowed.

With reference to claim 12, the Office Action states, "Referring to claim 12, the combination of Neumann/Vaglica disclose the method of claim 9, and further disclose establishing includes reading a current value of at least one timer maintained by said baseband co-processor consistent with said second wireless communications protocol (Neumann, paragraphs 27-34,38-4 1)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica et al, and Claim 12 depends from claim 9, which the Applicant believes is allowable, the Applicant respectfully requests that the rejection be withdrawn and the claim 12 be allowed.

With reference to claim 14, the Office Action states, "the combination of Neumann/Vaglica disclose the method of claim 9, and further disclose host baseband processor is further configured to effect higher-layer processing of information processed by said baseband co-processor (figures 2-8R, paragraphs 0019-0021, 0038, 0034, 0030, 0025)." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica, and Claim 14 depends from claim 9, which Applicant

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believes is allowable, the Applicant respectfully requests that the rejection be withdrawn and the claim 14 be allowed.

The Applicant has amended Claim 15 to more distinctly point out the Claimed invention. Claim 15 as amended, comprises the following limitations:

generating within a multi-mode communication device, a timer capture interrupt during a predetermined timing phase of a first wireless communication system, wherein said multi-mode communication device communicates via a first wireless protocol with said first wireless communication system, and said multi-mode communication device communicates via a second wireless protocol with a second wireless communication system;

storing a timer value of at least one time pertinent to operation of said second wireless communication system in response to said timer capture interrupt;

reading said timer value; and

determining a timing relationship between said first and second wireless communication systems based upon said read timer value.

The Office Action states that "Neumann does not specifically disclose storing a timer value of at least one timer pertinent to operation of said second wireless communication system in response to said timer capture interrupt." See Office Action dated 03/27/2006 at page 7, paragraph 1. To address this deficiency, the Office Action looks to Vaglica et al.

The Office Action states that "Vaglica disclose storing a timer value of in response to said interrupt (col. 5, line 25 through col. 6, line 5, and col. 6, lines 39-55, "INTERRUPTS, that are provided to processor 14, are generated by inner-processor communication unit")." See Action dated 03/27/2006 at page 7, paragraph 2. The Applicant has carefully read these sections on numerous occasions and has failed to see where Vaglica et al discloses "storing a timer value of at least one in response to an interrupt."

Even if Vaglica et al discloses "storing a timer value of at least one in response to an interrupt," which the Applicant respectfully asserts it does not, Vaglica et al does not disclose "storing a timer value of at least one time pertinent to operation of said second

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wireless communication system in **response to said timer capture interrupt**; reading said timer value **reading said timer value**; and **determining a timing relationship between said first and second wireless communication systems based upon said read timer value**" as recited in Applicant's amended Claim 15. Emphasis added.

Furthermore, for at least similar reasons as stated above with respect to Claim 1, Vaglica et al is not properly combinable with Neumann et al. Vaglica et al does not teach communication in a multi-protocol system in which the first processor handles a first protocol and the second processor handles a second protocol. Instead Vaglica et al teaches communication "for use in a time division multiple access system (TDMA) system such as GSM," which is not a system that uses multiple protocols. See column 3, lines 47-48. In this regard, Vaglica et al fails to teach a first communication system that utilizes a first communication protocol and a second communication system that utilizes a second communication system. Furthermore, no motivation to combine Vaglica et al with Neumann et al can be found in either reference. Accordingly, for at least the reasons stated above, the proposed combination of Neumann et al and Vaglica et al does not render claims 15, in addition to the claims that depend therefrom, unpatentable and a *prima facie* case of obviousness has not been established.

The Office Action further states that:

"It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the device of Neumann by incorporating the teachings of Vaglica into that of Neumann, and providing storing a timer value of at least one timer pertinent to operation of said second wireless communication system **in response to said timer capture interrupt**, for the purpose of preventing loss of information, preventing confusion at the receivers, and avoiding timing errors."

Since Vaglica et al does not teach "storing a timer value of at least one time pertinent to operation of said second wireless communication system in response to said timer capture interrupt;" nor does it teach "reading said timer value; and determining a timing relationship between said first and second wireless communication systems based upon said timer value," it cannot be used "to modify the device of Neumann et al by incorporating the teachings of Vaglica et al into that of Neumann et al,

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and providing storing a timer value of at least one timer pertinent to operation of said second wireless communication system **in response to said timer capture interrupt**, for the purpose of preventing loss of information, preventing confusion at the receivers, and avoiding timing errors."

It appears that the Office Action is asserting Official Notice when it specifies various purposes such as "preventing loss of information, preventing confusion at the receivers, and avoiding timing errors." Since the Office Action is asserting Official Notice that the subject of the above listed statements is common knowledge, the Applicant respectfully traverses the perceived and explicit assertions as further set forth below. Alternatively, if the Office Action's assertions are based on the personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should **only** be asserted when the subjects asserted to be common knowledge are "capable of instant and unquestionable demonstration as being well-known." That is, the subjects asserted must be of "notorious character" under MPEP § 2144.03(A). The Applicant asserts that the subject is not "capable of instant and unquestionable demonstration as being well-known," and as a result, is not of "notorious character." Accordingly, the Applicant, for at least the above stated reasons, respectfully request that the rejection to Claim 15 be withdrawn and Claims 15 allowed.

With reference to claim 18, the Office Action states, "the combination of Neuman/Valgica disclose the method of claim 15, and further disclose said first wireless communications system operates in accordance with a first wireless communications protocol and said second wireless." For at least the reasons stated above, since Neumann et al is not properly combinable with Vaglica et al, and Claim 18 depends from claim 15, which Applicant believes is allowable, the Applicant respectfully requests that the rejection be withdrawn and the claim 18 be allowed.

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II. The Proposed Combination of Neumann, and Vaglica, in view of Well Known Prior Art (MPEP 2144.03), Does not Render Claims 13, 16-17 and 18 Unpatentable

Paragraph 3 of the Detailed Action 35 U.S.C. § 103

Traversal Of Official Notice

(Paragraph 3 Page 8 of the Office Action)

Referring to claim 13, the Office Action states "the combination of Neumann/Vaglica disclose the method of Claim 11, and further disclose establishing including storing at least one timer value and an additional timer value pertinent to an additional timing state of said second wireless communications system in first and second registers of baseband co-processor (paragraphs 19-21, 27, 30-34, 38, 30, and 25). The combination of Neumann et al and Vaglica et al does not disclose the second wireless communications protocol comprises WCDMA. The examiner takes Official Notice of the fact that a WCDMA network well is known in the art."

The Applicant disputes the Examiner's assertions that "It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of prior art by providing a WCDMA network to the method of Neumann/Vaglica, for the purpose of serving a wider network of clients."

As previously stated, the Applicant respectfully disagrees that "the combination of Neumann/Vaglica disclose the method of Claim 11, and further disclose establishing including storing at least one timer value and an additional timer value pertinent to an additional timing state of said second wireless communications system in first and second registers of baseband co-processor" at paragraphs 19-21, 27, 30-34, 38, 30, and 25, or else where in the cited art. The combination of Neumann/Vaglica does not disclose the second wireless communications protocol comprises WCDMA." The combination of Vaglica et al and Neumann et al, at least does not disclose the limitation of Claim 11 and in particular the limitation of "in response to issuance of said timer capture interrupt" as recited in Applicant's Claim 11."

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Referring to claim 16, the Office Action states "the combination of Neumann/Vaglica disclose the method of Claim 15. The combination of Neumann/Vaglica does not specifically disclose storing an **additional timer** value of at least one other timer pertinent to operation of the second wireless communication system in response to the timer capture interrupt; reading said additional timer value, said timing relationship being based at least in part upon **additional timer value**. The examiner takes Official Notice of the fact that the providing of an addition timer value is well known in the art."

The Applicant respectfully disputes the Examiner's assertions that "It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of prior art to the method of Neumann/Vaglica, and consequently providing storing an **additional timer** value of at least one other timer pertinent to operation of the second wireless communication system in response to the timer capture interrupt, for the purpose of preventing data loss, obtaining accurate timing values, and providing efficiency."

Referring to claim 17, the Office Action states "the combination of Neumann/Vaglica disclose the method of Claim 15. The combination of Neumann/Vaglica does not specifically disclose one or more timers are incremented pursuant to operation of the first wireless communication system, determining a timing relationship including comparing at least one value of the one or more timers with the timer value. The examiner takes Official Notice of the fact that incrementing one or more timers pursuant to an operation is well known in the art."

The Applicant respectfully disputes the Examiner's assertions that "It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of prior art to the method of Neumann/Vaglica, and consequently providing one or more timers are incremented pursuant to operation of the first wireless communication system, determining a timing relationship including comparing at least one value of the one or more timers with the timer value, for the purpose of preventing data loss, obtaining accurate timing values, and providing efficiency."

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Referring to claim 19, the Office Action states "the combination of Neumann/Vaglica disclose the method of Claim 18, and further disclose said first wireless communications protocol comprises GSM (Neumann at paragraphs 19-21). The combination of Neumann/Vaglica does not specifically disclose second wireless protocol comprises WCDMA. The examiner takes Official Notice of the fact that a WCDMA network is well known in the art."

The Applicant respectfully disputes the Examiner's assertions that "It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of prior art by providing a WCDMA network to the method of Neumann/Vaglica, for the purpose of serving a wider network of clients."

Since the Office Action is asserting Official Notice that the subject of the above listed statements is common knowledge, the Applicant respectfully traverses the perceived and explicit assertions as further set forth below. Alternatively, if the Office Action's assertions are based on the personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should **only** be asserted when the subjects asserted to be common knowledge are "capable of instant and unquestionable demonstration as being well-known." That is, the subjects asserted must be of "notorious character" under MPEP § 2144.03(A).

However, the Applicant respectfully submits that the subject matter of the perceived and explicit assertions of Official Notice, as stated in pages 7 and 8 of the Office Action, are not well-known in the art as evidenced by the searched and cited prior art. The Applicant respectfully submits that the Examiner has performed "a thorough search of the prior art," as part of the Examiner's obligation in examining the present application under MPEP § 904.02.

Additionally, the Applicant respectfully submits that the Examiner's searched and cited references found during the Examiner's thorough and detailed search of the prior art are indicative of the knowledge commonly held in the art. However, in the

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Examiner's thorough and detailed search of the relevant prior art, none of the prior art taught or suggested the subject matter of the perceived and explicit assertions of Official Notice with regards to claims 13, 16-17 and 19, as stated in pages 8, 9 and 10 of the Office Action. That is, the Examiner's thorough and detailed search of the prior art has failed to yield any mention of the limitations in claims 13, 16-17 and 19, which the Office Action concedes are not explicitly found in Neumann et al and Vaglica et al, and which the Examiner asserts are widely known in the art. The Applicant respectfully submits that if the subject matter of these assertions of Official Notice had been of "notorious character" and "capable of instant and unquestionable demonstration as being well-known" under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner's thorough and detailed search of the prior art.

If the Examiner had found any teaching of relevant subject matter, the Examiner would have been obligated to list the references teaching the relevant subject matter and make a rejection. Consequently, the Applicant respectfully submits that the prior art does not teach the subject matter of the perceived assertions of Official Notice stated in pages 8, 9 and 10 of the Office Action and respectfully traverses the perceived assertions of Official Notice.

The Applicant specifically challenges the perceived and explicit assertions of Official Notice with regard to claims 13, 16-17 and 19. As stated above, the Applicant respectfully traverses the perceived and explicit assertions of Official Notice and submits that the subject matter of claims 13, 16-17 and 19 is not of such "notorious character" that it is "capable of instant and unquestionable demonstration as being well-known." Under MPEP 2144.03, the Examiner is now obligated to provide a reference(s) in support of the perceived assertions of Official Notice if the Examiner intends to maintain any rejection based thereon. Additionally, the Applicant respectfully requests the Examiner reconsider the assertion of Official Notice and provide any basis for the assertions of Official Notice.

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Allowable Subject Matter

(Paragraph 4 of the Office Action)

Applicant acknowledges with appreciation the Examiner's statement that dependent Claims 3, 6 and 7 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Dependent Claim 3 depends from dependent Claim 2, the latter of which depends for independent claim 1. Dependent Claim 6 depends from dependent Claim 3, the latter of which depends for independent Claim 2, which depends from independent Claim 1. Dependent Claim 7 depends from dependent Claim 6, the latter of which depends for independent Claim 6, which depends from Claim 2, which depends from independent Claim 1.

In light of the above arguments, the Applicant submits that independent claims 1, 9, and 15 are in condition for allowance. Applicant, therefore, believes that dependent claims 2, 4-5, 8-14 and 16-19 are also in condition for allowance.

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CONCLUSION

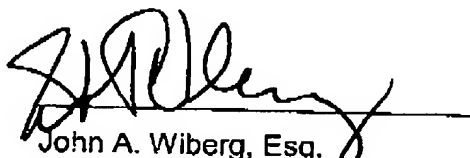
Based on the foregoing, the Applicants believe that all claims 1-19 are in condition for allowance. If the Examiner disagrees, the Applicants respectfully request a telephone interview, and request that the Examiner telephone the undersigned Attorney at (312) 775-8191.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: June 15, 2006


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